Ingleside on the Bay Coastal Watch Association
1018 Bayshore Dr.
Ingleside, Texas 78362-4840
iobcwa.org

July 26, 2022

Dr. Earthea Nance
Mr. Mark Hayes
U.S. EPA Region 6
United States Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

RE: Request Investigation – Clean Water Act Violation by Dredging in Redfish Bay, Nueces County, Texas
Corpus Christi Ship Channel Improvement Project (CCSCIP)

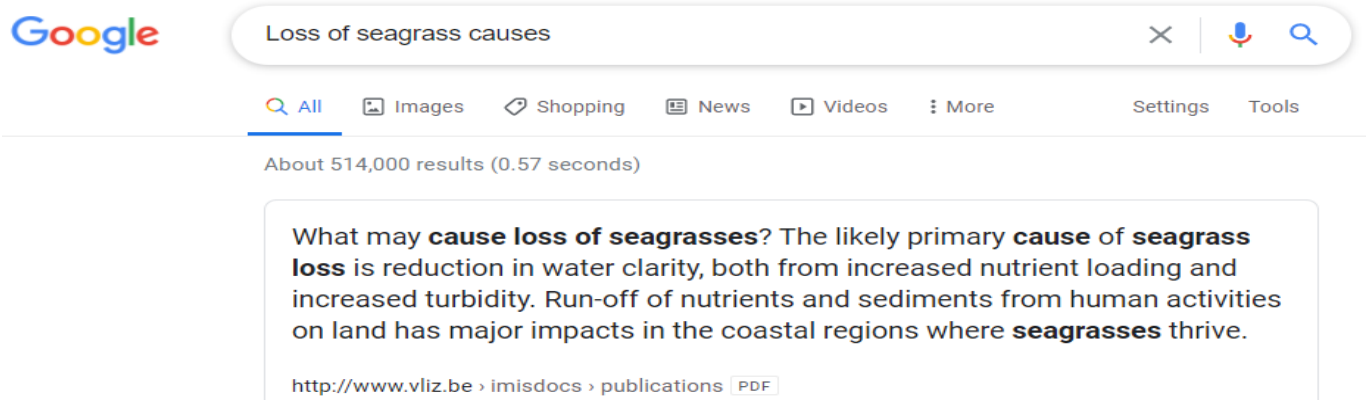
Dear Dr. Nance,

I hope that this letter finds you and your staff well. Ingleside on the Bay and the Coastal Bend communities send you warm greetings.

Today, I am saddened and angry that I must inform you of the lack of enforcement of the Clean Water Act. Personally, I have sent over 20 complaints concerning silt suffocating seagrass meadows. We are asking that the EPA and Texas Parks and Wildlife (TPW) use its enforcement authority to correct this environmental calamity.

In preparation for the Deepening of the (Port of Corpus Christi) POCC Ship Channel comments, I came across these sickening photos showing the large areas of silt covering seagrasses throughout the Redfish Bay State Scientific Area (RBSSA). TPW established this protected scientific area in the year 2000 and is primarily responsible for enforcement of its protection. I made several calls to TPW and was able to locate Kyle Henley with the enforcement division on Tuesday July 19, 2022. I have left two voicemails and yet no reply.

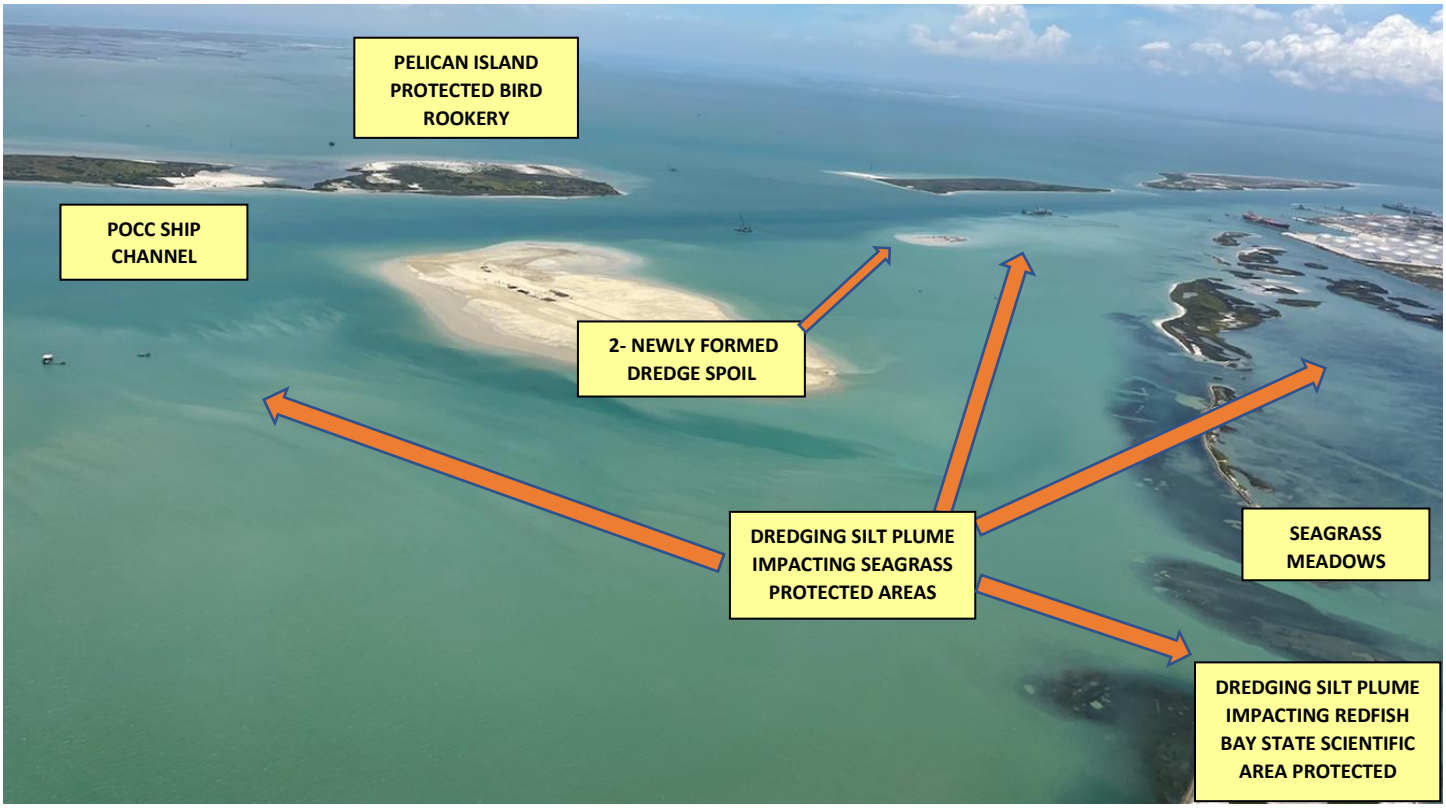
Since USACE oversees this dredging project but has a historically looked the other way when complaints have been filed, we request action by other agencies that have enforcement jurisdiction. You and your staff witnessed Enbridge's docking silt plume that has destroyed tens of acres of seagrass along Ingleside on the Bay's coastline when you lasted visited this area June 10, 2022. Earlier this year, Enbridge's maintenance dredging caused a silt plume at Berry Island that was so large that the POCC filed an injunction that halted those dredging activities.



A series of photographs will document our concerns. First, **dredge curtains were not deployed in the spoil being dumped in Redfish Bay** on the north side of the ship channel at a single site. Google maps 3/2022 documents silt plumes coming from that site. See **Figure A** below. Notice unrestricted silt plume coursing throughout Redfish Bay.

Figure A –Google Map 3/2022 Looking North – Note the proximity to Pelican Island rookery and protected site. Dredging occurred during the nesting period and there are unknown harms done to the fledgling seabirds. Seagrasses around this protected rookery are threatened as well.

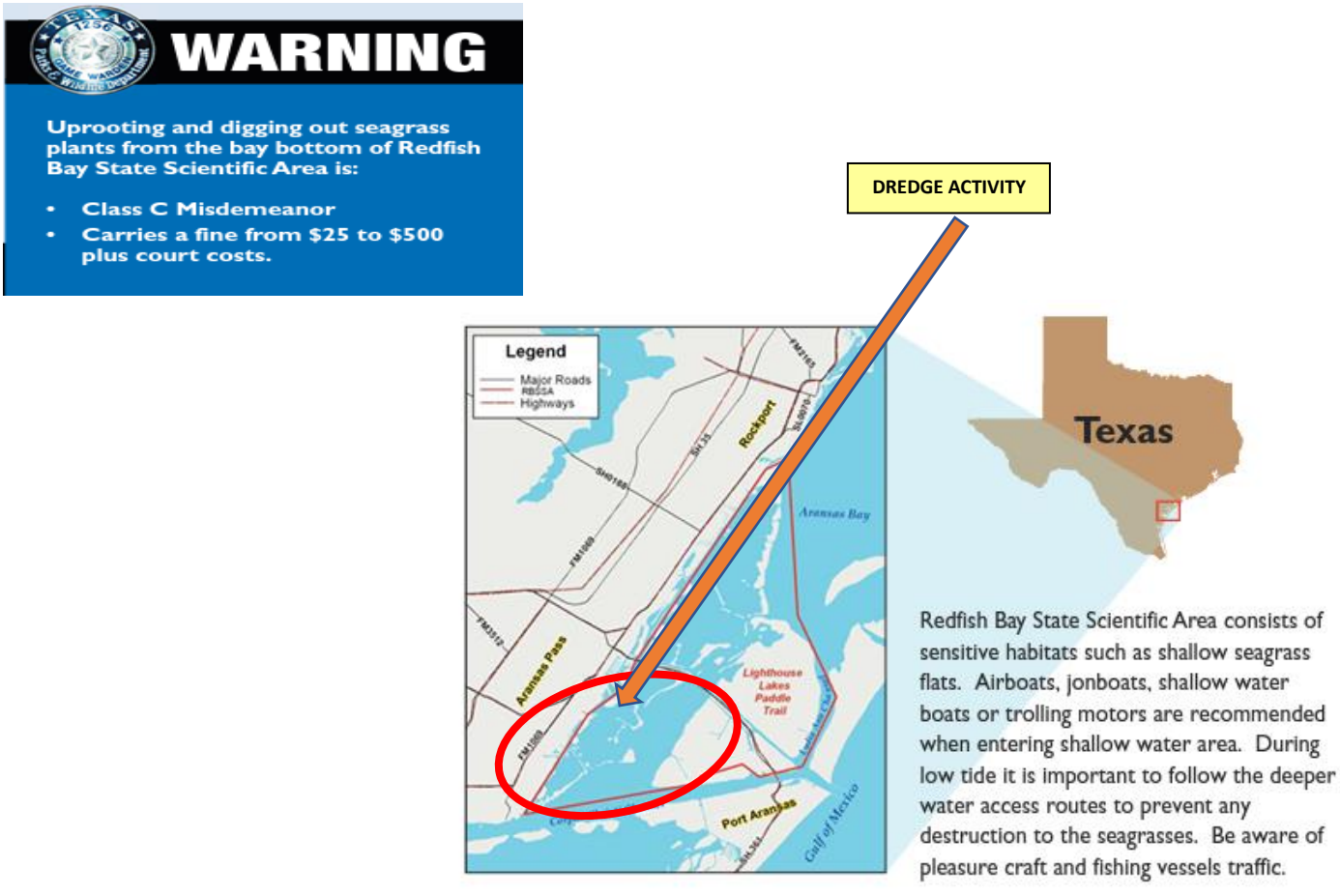
Figure B & Figure C - Photos were taken July 14, 2022 that captures the massive silt plume impacting seagrasses along Dagger Island and into the Redfish Bay State Scientific Area. **Clearly a violation of the Clean Water Act** as seagrasses are buried in silt, losing its ability to utilize photosynthesis. Immediately across from the newly formed spoil islands is the protected Pelican Island nesting site. This dredge action occurring during the nesting months and would threaten juvenile seabirds since this is one of the nearest food sources in the area. Pelican Island is known as the first nesting occurrence of the Brown Pelican as it made its comeback from the edge of extinction. Notice a second spoil island formation and the silt plume heading for Corpus Christi Bay.



<u>Figure B – Looking South. Photo July 14, 2022</u> – The milky colored waters contains silt from USACE dredging operations that is covering seagrass meadows. We have observed that silt continues to flow from the larger dredge islands as ship wakes break upon its shoreline. Summer is the highest productive seagrasses growing period and the dredging activity reduces the productivity of this valuable resource.

Figure C – Looking South. Photo July 14, 2022 – Milky colored silt has expanded throughout the RBSSA and into the Intracoastal Waterway (ICW).

The RBSSA violation for destruction of seagrasses from boaters as a Class C Misdemeanor. Is the USACE held to the same enforcement criteria?



Seagrasses Distribution

Seagrasses are a highly sensitive part of the ocean ecosystem. These habitats are important for so much more than just being the front lawns of the ocean. Seagrass habitat is vital to providing oxygen to the ocean as well as removing carbon dioxide and therefore can act as a natural carbon sink. Seagrasses also buffer wave energy, bind sediment in the root matrix, contribute vital nutrients to the ecosystem, act as habitat and food for a variety of species, and provide indirect economic value. In addition, they are protected under a number of state and federal statutes. So why should ocean planners pay attention to seagrass data?

1. **Seagrasses are protected by the Clean Water Act.** Seagrasses are considered a wetland under Section 404 of the Clean Water Act (CWA) and thus protected from fill activities, stormwater runoff, and other water quality issues. Digging into the seagrass beds for burying cables, dredging, and other seafloor activities will require federal and possible state permits.
2. **HAPCs and essential fish habitats include seagrasses.** Both the essential fish habitat (EFH) and the Habitat Area of Particular Concern (HAPC) designations take into account where seagrass beds are when protecting an area. Therefore, tread carefully, because seagrass presence could mean a HAPC or EFH is nearby, too. Similarly, marine sanctuaries help to protect seagrass beds under the mini 312 program (same program that protects coral reefs). This includes protecting seagrass beds from propeller scarring, boat groundings, or ship strikes, as well as digging and dredging within a sanctuary.
3. **No seagrass beds means reduced fish for commercial and recreational fisheries.** Seagrass beds are one of the most productive natural resources in the world and serve as perfect nurseries for many juvenile fish species. Seagrass beds are also great places for smaller organisms to hide from predators. Healthy seagrass beds can produce over 10 tons of leaves per year. This biomass contributes to these juveniles' food source and nursery habitat. A single acre of seagrass may even be able to support as many as 40,000 fish and 50 million small invertebrates.

In a separate, but related matter, the Port of Corpus Christi has out for comment a Draft Environmental Impact Statement (DEIS) for U.S. Army Corps of Engineers (USACE) Project SWG-2019-00067 to further deepen the Corpus Christi Ship Channel from 54' to more than 75' in the area around Redfish Bay State Scientific Area (RBSSA) - the same region in my complaint. My complaint photos show what is already happening to Redfish Bay under the current USACE Corpus Christi Ship Channel "Improvement" Project (CCSCIP). Imagine how bad it will be with even MORE channel deepening under the new Corpus Christi Ship Channel "Deepening" Project (CCSCDP)! Millions more cubic feet of dredged material will be placed on or near Redfish Bay and the barriers islands. The increased ship traffic and deeper channel will increase erosion and siltation, impact fisheries and spawning grounds, and threaten vital habitat for endangered sea turtles, whooping cranes, and piping plover. Not to mention the increased storm surge (up to 4' as it is now) we in Ingleside on the Bay are already experiencing with every tropical storm in the Gulf.

We believe the Coastal Bend Bays and Estuaries and RBSSA should be considered Aquatic Resources of National Importance (ARNI). These have high economic importance and is important to the protection, maintenance, and enhancement of the Nation's waters - and to the coastal communities of Texas. Numerous scientists at the University of Texas Marine Science Institute (UTMSI) and Texas A&M's Harte Research Institute (HRI) can attest to the specific value of the bay system and Redfish Bay. The Coastal Bend Bays and

Estuaries Program (CBBEP) has conducted numerous studies on this EPA-designated estuary of National Significance. See https://www.cbbep.org/publications2/.

Our understanding is that the EPA Administrator has the authority to identify the Coastal Bend Bays and Estuaries as an ARNI, and can raise the possibility of elevating this permit to USACE in a "May Affect" letter before the end of the DEIS comment period on 8/9/22, in accordance with the attached factsheet on the Clean Water Act Section 404(q) process.

We humbly request that you begin the 404(q) process and look forward to working with the EPA on curtailing this harmful project. Please feel free to reach out to me with any questions.

Sincerely yours,

Patrick A. Nye
President IOBCWA

Sources

https://tpwd.texas.gov/landwater/water/habitats/seagrass/redfish-bay

along Pelican Island (https://en.wikipedia.org/wiki/Pelican_Island_(Corpus_Christi_Bay) and towards East Flats.